

KEOWEE COURIER.



"To thine own self be true, and it must follow, as the night the day, thou canst not then be false to any man."

BY R. A. THOMPSON & CO.]

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POETRY.

Somebody'll Come To-Night.

I must bid my hair with the myrtle bough
And gird it with buds white,
And drive this blush from my burning brow,
For somebody'll come to-night;
And while his eye shall discern a grace
In the braid and the folded flower,
He must not find, in my tell-face,
The spell of his wondrous power.

I must don the robe which he fondly calls
A cloud of enchanting light,
And sit where the mellowing moonlight falls,
For somebody'll come to-night;
And while the robe and place shall seem
But the veriest freak of chance,
'Tis sweet to know that his eye will beam
With a tenderer, happier glance.

'Twas thus I sang when the years were few
That lay on my girlish head,
And all the flowers that in fancy grew
Were tied with a golden thread:
And somebody came, and the whispers there—
I cannot repeat them quite,
But I know my soul went up in prayer,
And somebody's here to-night.

I blush no more at the whispered vow,
Nor sigh in the soft moonlight;
My robe has a tint of amber now,
And I sit by the anthracite;
And the locks that vied with the glossy wren
Have passed to the silvery gray;
But the love that decked them with flowers then
Is a holier love to-day.

VARIETY.

[From the New York World.]

The Egan Habeas Corpus Case.

ILLEGALITY OF TRIALS BY MILITARY COMMISSIONS—IMPORTANT DECISION BY JUDGE NELSON.

United States Circuit Court—Before Judge Nelson.

In the matter of James Egan, a prisoner in the Albany Penitentiary—*habeas corpus*. Amasa J. Parker for the petitioner; Wm. A. Dart, District Attorney, for the Government.

Nelson, C. J.—The petition and return to the writ of *habeas corpus* issued in this case, presents the following facts:

The prisoner is a citizen, and by occupation a farmer, in the Lexington District of the State of South Carolina, some eighty years of age, and never engaged in the military service or connected with the army of the United States, or of the so-called Confederate States, has been arrested and tried before a Military Commission, in pursuance of orders issued at Headquarters of the District of Western South Carolina, Columbia, upon a charge of murder, convicted, and sentenced for life to the Albany Penitentiary.

The specification in the record of the crime is the killing of a negro boy by shooting him, on or about the 24th of September, 1865.—The trial took place on the 20th of November, and the sentence pronounced on the 1st of December following. The sentence is approved by the order of Brevet Major-General A. Ames, and also of Major-General D. E. Sickles. The only paper or evidence before us, on the return to the writ of *habeas corpus*, is the record or order of commitment in the hands of General Pillsbury, the superintendent of the Penitentiary, which contains the above facts.

It will be observed that this trial before the Military Commission took place some seven months after the termination of hostilities and the surrender of the rebel army to the authorities of the United States; and, further, that the offence if one which, according to our constitutional system of Government, is cognizable by the judicial authorities of the State, and not of the Federal Government. And, also, that the trial was not under the rules and articles of war as established by the United States, in Congress assembled, as these are limited to the government of the land or naval forces of the United States, and of the militia when in actual service in time of war or public danger.

The trial must have been held under what is known and denominated "martial law," and the question in the case is whether or not this conviction and punishment can be held by reason of that authority.

All respectable writers and publicists agree in the definition of martial law—that it is neither more nor less than the will of the general who commands the army. It overrides and suppresses all existing laws, civil officers and civil authorities, by the arbitrary exercise of military power; and every citizen or subject, in other words, the entire population of the country within the confines of its power, is subjected to the mere will or caprice of the commander. He holds the lives, liberty, and property of all in the palm of his hand.

Martial law is regulated by no known or established system or code of laws, as it is over and above all of them.

The commander is legislator, judge, and executioner. His order to the Provost Marshal is the beginning and the end of the trial and condemnation of the accused.

There may be a hearing or not, at his will. If permitted, it may be a Drum-head Court Martial, or, the more formal Board of a Military Commission, or both forms may be dis-

pensed with; and the trial and condemnation equally legal, though not equally humane and judicious.

The law officers of the Crown in England, in giving their opinion in the matter of the insurrection in the Island of Jamaica, observe that courts martial, as they are called, by which martial law is administered, are not, properly speaking, courts martial, or courts at all. They are mere committees formed for the purpose of carrying into execution the discretionary power assumed by the Government; on the one hand they are not obliged to proceed in the manner pointed out by the meeting, act, and articles of war; and, on the other, if they do so proceed, they are not protected by them as members of a real court martial might be, except in so far as such proceedings are evidence of good faith.

Lord Wellington, in one of his despatches from Portugal (1810), speaking of martial law, observed that, as applied to persons, excepting officers and soldiers and followers of the army, for whose government there are particular provisions of law in all well regulated countries, is neither more nor less than the will of the General of the army. He punished either with or without trial, for crimes, either declared to be so or not so declared by any existing law, or by his own orders. Subsequently in a speech in the House of Lords, he expressed the same opinion, and added: "In fact martial law means no law at all; therefore the General who declares martial law and commands that it shall be carried into execution, is bound to lay down distinctly the rules and regulations, according to which his will is to be carried out."

This being the name and extraordinary character of martial law, which, as observed by Sir Matthew Hale, is not law, but something indulged rather than allowed as law, all the authorities agree that it can be even indulged only in case of necessity, and when the necessity ceases, martial law ceases. When a Government or country is disorganized by war, and the courts of justice broken up and dispersed, or are disabled, from the prevalence of disorder and anarchy, to exercise their functions, there is an end of all law, and the military power becomes a necessity which is exercised under the form, and according to the practice and usage of martial law, as stated by a distinguished civilian, "when foreign invasion or civil war renders it impossible for courts of law to sit, or to enforce the execution of their judgments, it becomes necessary to find some rude substitute for them, and to employ for that purpose the military, which is the only remaining force in the community; and while the laws are silenced by the noise of arms, the rulers of the armed force must punish as equitably as they can those crimes which threaten their own safety and that of society; but no longer."

This necessity must be shown affirmatively by the party assuming to exercise this extraordinary and irregular power over the lives, liberty and property of the citizen, whenever called in question. As explained by the Judge Advocate General of England before a committee of the House of Commons, in case of martial law declared in Ceylon, (and which explanation has been approved by the law officers of the Crown) in answer to a question put by Sir Robert Peel, he observed, "I believe the law of England is, that a Governor, like the Crown, has vested him the right, where the necessity arises of judging of it, and being responsible for his work afterwards, so to deal with the laws for the safety of the colony." And, again, in answer to a question by Mr. Gladstone: "I say he is responsible just as I am responsible for shooting a man on the king's highway, who comes to rob me. If I mistake my man, and have not, in the opinion of the judge and jury who try me, an answer to give, I am responsible."

Applying these principles to the case in hand, we think the record fails to show any power on the part of the military officer over the alleged crime therein stated, or jurisdiction of the Military Commission appointed by him to try the accused. No necessity for the exercise of this anomalous power is shown.—For aught that appears, the civil local Courts of the State of South Carolina were in the full exercise of their judicial functions at the time of this trial, as restored by the suppression of the rebellion, some seven months previously, and by the revival of the laws and reorganization of the State Government in obedience to and in conformity with its constitutional duties to the Federal Union.

Indeed, long previous to this a Provisional Governor had been appointed by the President, who is Commander-in-Chief of the Army and Navy of the United States (and whose will under martial law constituted the only rule of action,) for the special purpose of changing the existing state of things and restoring civil government over the people. In pursuance of this appointment a new Constitution has been formed, a Governor and Legislature elected under it, and the State in the full enjoyment or entitled to the full enjoyment of her constitutional rights and privileges.

The Constitution and laws of the Union were thereby acknowledged and obeyed, and were as authoritative and binding over the

people of the State as in any other portion of the country. Indeed, the moment the rebellion was suppressed, and the Government growing out of it subverted, the ancient possession, authority and laws resumed their accustomed sway, subject only to the new reorganization or the appointment of proper officers to give to them operation and effect.

This reorganization and appointment of the public functionaries, which was under the superintendence and direction of the President, as Commander-in-Chief of the Army and Navy of the country, who, as such, had previously governed the people of the State from imperative necessity by force of martial law, had already taken place, and the necessity no longer existed.

We have not deemed it necessary, if proper, to look into the merits of the offence charged against the prisoner, although it is insisted that it occurred in self-defence, and in resisting violent assault upon himself. Let the prisoner be discharged.

Southern Baptist Convention.

RUSSELLVILLE, Ky., May 25, 1866.—In the Convention to-day, Dr. Tichenor, of Alabama, submitted a report and address upon the subject of affording religious instruction to the colored population of the South, the encouragement of day schools among them, and the education of colored preachers by the Baptist pastors. This report elicited some discussion, but it was the unanimous sentiment of the Convention that the former masters of the slaves were their proper instructors, and that Baptists, above all others, should actively and energetically exert themselves in the matter.

Messrs. McIntosh, of Alabama, and Poin-dexter, of Virginia, alluded to the absurd prejudice existing against teaching the blacks. They could see no degradation in it.

Dr. Crawford, of Georgetown College, spoke of the laws formerly existing in Georgia, prohibiting even owners to teach their slaves.—He and his children had violated that law, for it was a law against God. The report was adopted without opposition.

A preamble and resolution defining the opinion of the canon upon the subject of religious liberty, was introduced by A. P. Williams, of Missouri. It re-asserts the great cardinal and fundamental principles of Baptist faith which have ever been in antagonism to persecution for conscience' sake.

The declaration of opinion gave rise to a discussion of very general interest. The Missouri delegates were opposed to any personal allusions to themselves or the persecution they have undergone and are now suffering. But the Convention proffered to express its sympathy with its Missouri brethren and its detestation of the "despotism" that prevails there.

Speeches were made by Dr. Fuller, of Baltimore, and Dr. Burrows, of Richmond. Dr. Fuller gave his personal experience in the midst of civil war, and how he had obeyed the laws of the United States, not for patriotism, but for religion, having stated this to the authorities at Washington when he was threatened with imprisonment.

Dr. Burrows, of Richmond, stated that he had nothing to repent of in what he had said, or thought, or done, during the past five years, and that to no man living would he ever make acknowledgments, or ask pardon of any but the Lord of all.

Professor Boyce, of South Carolina, who was, for months after his State seceded, a warm Unionist, but afterward a staff officer, spoke upon the subject of soul liberty. It was, he said, Bible doctrine, as well as Baptist doctrine, and should be reasserted and re-instated by the Convention. This discussion gave occasion to the most spirited debates of the session, and there was evidently much feeling on the important question of military and civil interference with religious affairs.

The General Association of the Kentucky Baptists met this morning in the Methodist Church. A large delegation is present from every section of the State. J. S. Coleman, of Ohio county, was elected Moderator, and W. Pope Yeaman, of Covington, Clerk. The report of the Corresponding Secretary exhibits the receipts of Kentucky at \$8,000, during the past year, for benevolent purposes.

A vote was taken upon the place for holding the next annual meeting. Henderson, Millersburg, New Liberty, Owensboro, and Louisville were the contending localities. The vote stood: Henderson, 74; Louisville, 41.

Dr. Crawford, of Georgetown, was chosen to preach the next introductory sermon, and H. McDonald alternate. Rev. G. C. Lorimer was appointed Chairman of the Committee on Relations with the colored people, and Rev. R. M. Dudley Chairman of the Committee on Revision of the Constitution.

To-night Rev. G. C. Lorimer preached the introductory sermon before a crowded audience.—*Cincinnati Commercial.*

NEW YORK, May 30.—The steam ship Peruvian, from Liverpool, arrived at Sandy Hook to-day. She has seven hundred and fifty passengers. Has lost thirty-five from cholera during the passage, and has twenty-eight now sick on board, who will be transferred to the hospital ship.

The Columbia and Hamburg Railroad.

The "Edgefield Advertiser," in an article on this road, says:

There are at present from 350 to 400 hands at work on this road, which force will be shortly increased to 500. The contract for the bridge over the Congaree, at Columbia, has been taken. The laying of the iron upon the track will be commenced about the 1st November next.

Col. William Johnston, the able and widely-known President of the Road, as also of the Columbia and Charlotte Road, accompanied by Col. Gardner, Chief Engineer of the former, have been lately in our midst, bending their united energies to the furtherance and speedy accomplishment of their great work. The high integrity and known financial ability of the President stamp with success any measure with which he allows his name to be associated. He is plain, practical and earnest, and possesses in a remarkable degree the confidence of the entire public.

Sometime ago, when Col. Johnston's name was first associated with the Columbia and Hamburg Road, we had occasion to cast our eyes over a statement of the condition of the Charlotte Road. We ascertained the following facts: The annual income of this Road was about \$300,000; and the net income, after payment of all expenses, \$190,000. The entire cost of this Road was about \$2,000,000; the yearly interest on which is \$140,000, leaving \$50,000 net profit to the stockholders, per annum. Besides this, when Sherman marched through the country, the Charlotte Road owned over 1,600 bales of cotton, a large number of negro slaves, and much other valuable property.

The Columbia and Hamburg Road will cost at a close estimate \$1,500,000; and it is reasonable to suppose that a great and unavoidable thoroughfare from North to South, as this Road must necessarily be, will prove more remunerative than the Charlotte Road.

SAN FRANCISCO, May 28.—The Mexican Consul has received an official despatch, dated 16th inst., from Mazatlan, announcing that the Liberals attacked the garrison at Hermaville on the 4th, and after a bloody struggle, captured and pillaged the town. Imperial reinforcements subsequently arrived, killed 200 Liberals, drove away the balance, and captured all the booty. Don Gonzales, (who refused to give the Liberals \$40,000,) together with thirteen Americans, were cruelly murdered.

The Imperialists defeated Corona and Singalva. Several wealthy families have arrived here, flying from Liberal rule. The published accounts declare that in the attack on Hermaville the Liberals murdered 35 foreigners and 500 citizens, who assisted to defend the town. Letters corroborate the statement of forced contributions by the Liberals. The town was pillaged and women violated. The population of Sonora was rising to avenge the wrongs perpetrated by the Liberals.

NEW YORK, May 30.—Unofficial report says that the steam ship Union from Liverpool, 16½ days out, arrived at Quarantine yesterday with upward of four hundred passengers on board. Thirty-three had died on the trip of cholera, and fifteen cases were still on board. Since the 16th inst. nearly 7000 emigrants have arrived at this port.

ALEXANDER H. STEPHENS ON THE SITUATION.—A letter from A. H. Stephens, dated Crawfordsville, Georgia, 15th instant, says:

"I found all things in Washington, upon the whole, in as good condition, if not better, than I expected. I have not, from the beginning, looked for anything from this Congress. My only hope for the country is in the next fall elections at the North. Should the President's policy be sustained in these, all may yet be well. If not, to me, the prospect of the future for this country, North and South, is gloomy indeed. But from what I saw and heard at Washington, my hopes for a change next fall were greatly stimulated. I am still hopeful in this view, but far from being sanguine. Constitutional liberty will, in my opinion, in a great measure depend upon the result."

BATTLE BETWEEN BOYS.—The "Alexandria Gazette" of Monday says:

The regular weekly fight between the Washington and Alexandria boys, came off yesterday evening, at the Four Mile Run. About two hundred—white and black—were engaged on each side, and during the melee guns and pistols were freely used. No Alexandrians were seriously injured. The Washingtonians were defeated, and driven from their position with the loss of their hats and jackets, which had been deposited in a pile previous to the commencement of the battle.—These Sunday evening civilized amusements have become of such invariable occurrence that many take the cars from Washington and this city to witness the sport!

During two months past, twenty-two deaths from starvation occurred in New York; two from suicide, and 27 from drunkenness.

Later From Europe.

New York, June 3.—The steamers Hermann and Southampton, with dates to the 23d, have arrived.

A Paris telegram to the London Post states definitely that arrangements have been made for a conference of France, England and Russia on one side, Austria, Prussia and Italy on the other, with Drouyn D'Lhuys as President.

The "London Herald" says that conferences can do nothing, and that war is certain unless the combatants become exhausted under the burden of preparation.

The Dresden official journal says the conference was to meet May 25th, but that Austria was evincing a disinclination to participate. If persisted in, she will be represented pro tem by England. There is no relaxation in military preparations by Russia, while there is a universal feeling that there will be a pacific solution.

Prussia has issued a decree that, in the event of a war, the enemy's merchant ships will not be liable to capture on the high seas, provided similar rules are adopted by her antagonists.

The Austrian Commandant has notified the Venetians that any attempt to enlist in Italian Corps, or to encourage desertion, shall be dealt with by martial law. Austria has refused to discuss any proposition for the cessation of Venetia. The formation of volunteers into Regiments commenced on the 21st.

A Vienna dispatch says that the treaty between Prussia and Italy is offensive and defensive, and continues until the end of the present year. A Prussian corps is concentrated at Wiltz Kerfut Reisse. To prove that Prussia accepts the mediation of conference, the departure of the Prince Royal and Prince Frederick Charles has been postponed.

The report that an Austrian patrol had crossed the Prussian frontier is denied by the Austrian command.

NEW YORK, June 4.—The steam ship Nova Scotian has arrived at Farther Point, via Londonderry with Liverpool dates to the 25th ultimo.

The European political situation remains unchanged.

More failures are reported. The financial condition of affairs is gloomy. A foreign Brussels telegram from Paris states that the Government is raising to their full complements, all regiments belonging to the armies of Paris and Lyons, in order that they may be put on a war footing, and placed as armies of observation on the German frontiers.

Robinson, Gaysten & Co., Bankers at Manchester, have failed. Liabilities not large.

Cotton had declined during the week from ½ to 1d. for American and ½ to ¾d. for other descriptions.

THE desolation of the South is thus pictured by a traveler: "Passing from New Orleans to St. Mary's I felt as if in a funeral procession for over a hundred miles. This vast country, once the Eden of America, is a desert over which the weeds of mourning flourish and the clouds of sorrow weep. The verdure of spring enchants the woods and wilds of yore, but industry is unseen in the fields and commerce unfelt on the waters.—The orange and plaitain are green in the groves and the palm and the myrtle are bright in the gardens, but the plantations are uncultivated, and the once hospitable homes have no hand to extend welcome to friends or strangers.

The ruins of mansions are overgrown with thorns, and a thousand walls once vocal with songs and machinery now stand as gloomy symbols of conflagration. Along the railways, by the river and bayous, the same sad scene of malevolence and wanton destruction is continually visible. The number of sugar-mills and houses needlessly burned is very great, and the utter ruin inflicted without cause, is incalculably vast. Not one third of the farms are being worked, and but few that are will produce much sugar; several years labor being chiefly required to produce seed; perhaps one-tenth of a crop will be produced, not more."

AGRICULTURAL—EXPORTS.—The Commissioner of Agriculture states that the following is a statement of the exports from New York of the leading agricultural products from January 1, 1866, to May 1: Flour, (wheat) 344,490 barrels; rye flour, 1,074 barrels; corn meal, 43,523 barrels; wheat, 109,457 bushels; rye, 171,823 bushels; oats, 676,520 bushels; peas, 26,614 bushels; corn, 2,077,156 bushels; cotton, 235,852 bales; hay, 17,646 bales; hops, 382 bales; leaf tobacco, 13,420 hogheads; leaf tobacco, 21,905 packages; manufactured tobacco, 922,543 pounds; petroleum, 9,035,296 gallons; pork, 39,536 barrels; beef, 12,015 barrels; beef, 21,379 tierces; out meats, 21,636,355 pounds; butter, 743,055 pounds; cheese, 2,989,191 pounds; lard, 12,087,482 pounds; tallow, 6,163,110.

Josh Billings says: "I never could find the meaning of the word 'collide' in Worcester or Webster; but riding the other day on the New York Central Railroad I saw it all. It is the attempt of two trains to pass each other on a single track. If I remember correctly it was a most miserable failure."